

Senate File 2073 - Introduced

SENATE FILE 2073

BY McCOY

A BILL FOR

1 An Act establishing a criminal penalty for a violent habitual
2 offender.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 901.5, subsection 2, Code 2014, is
2 amended to read as follows:

3 2. If the defendant is not ~~an~~ a habitual offender or violent
4 habitual offender as defined by section 902.8 or 902.8B, the
5 court may pronounce judgment and impose a fine.

6 Sec. 2. NEW SECTION. 902.8B Minimum sentence — violent
7 habitual offender.

8 1. A violent habitual offender is any person convicted of
9 a class "C" or a class "D" felony, who has twice before been
10 convicted of any felony violation under chapter 707, 708, 709,
11 or 710. An offense is a felony if, by the law under which the
12 person is convicted, it is so classified at the time of the
13 person's conviction. A person sentenced as a violent habitual
14 offender shall not be eligible for parole until the person has
15 served the minimum sentence of confinement of four years.

16 2. For purposes of this section, felony conviction
17 includes any felony conviction in another jurisdiction that is
18 comparable to a felony listed in subsection 1 or any conviction
19 under the prior laws of this state or another jurisdiction,
20 that is comparable to a felony conviction listed in subsection
21 1.

22 Sec. 3. Section 902.9, subsection 1, paragraphs c through e,
23 Code 2014, are amended to read as follows:

24 c. ~~An~~ A habitual offender under section 902.8 shall be
25 confined for no more than fifteen years.

26 d. A class "C" felon, not ~~an~~ a habitual offender, shall be
27 confined for no more than ten years, and in addition shall be
28 sentenced to a fine of at least one thousand dollars but not
29 more than ten thousand dollars.

30 e. A class "D" felon, not ~~an~~ a habitual offender, shall be
31 confined for no more than five years, and in addition shall be
32 sentenced to a fine of at least seven hundred fifty dollars but
33 not more than seven thousand five hundred dollars.

34 Sec. 4. Section 902.9, subsection 1, Code 2014, is amended
35 by adding the following new paragraph:

1 NEW PARAGRAPH. *Od.* A violent habitual offender under
2 section 902.8B shall be confined for no more than twenty-one
3 years.

4 Sec. 5. Section 906.4, subsection 1, Code 2014, is amended
5 to read as follows:

6 1. A parole or work release shall be ordered only for the
7 best interest of society and the offender or as otherwise
8 required by law, and not as an award of clemency. The board
9 shall release on parole or work release any person whom it
10 has the power to so release, when in its opinion there is
11 reasonable probability that the person can be released without
12 detriment to the community or to the person. A person's
13 release is not a detriment to the community or the person if
14 the person is able and willing to fulfill the obligations of a
15 law-abiding citizen, in the board's determination.

16 Sec. 6. Section 906.4, subsection 2, Code 2014, is amended
17 by adding the following new paragraph:

18 NEW PARAGRAPH. *c.* A person serving a sentence under section
19 902.8B shall be placed on parole or work release at least
20 one year prior to the discharge of the person's sentence.
21 Parole or work release for a person serving a sentence under
22 section 902.8B, shall begin in a residential treatment facility
23 operated by a judicial district department of correctional
24 services.

25 Sec. 7. Section 907.3, subsection 1, paragraph a, Code 2014,
26 is amended by adding the following new subparagraph:

27 NEW SUBPARAGRAPH. (14) The defendant is classified as a
28 violent habitual offender under section 902.8B.

29 Sec. 8. Section 907.3, subsection 2, paragraph a, Code 2014,
30 is amended by adding the following new subparagraph:

31 NEW SUBPARAGRAPH. (8) Section 902.8B classifying the
32 defendant as a violent habitual offender.

33 Sec. 9. Section 907.3, subsection 3, Code 2014, is amended
34 by adding the following new paragraph:

35 NEW PARAGRAPH. *g.* A sentence imposed under section 902.8B.

1 EXPLANATION

2 The inclusion of this explanation does not constitute agreement with
3 the explanation's substance by the members of the general assembly.

4 This bill establishes a criminal penalty for a violent
5 habitual offender.

6 Under the bill, a person convicted of a class "C" or a class
7 "D" felony, who has twice before been convicted of any felony
8 violation under Code chapter 707 (homicide and related crimes),
9 708 (assault and related offenses), 709 (sexual abuse and
10 related offenses), 710 (kidnapping and related offenses), or
11 any similar offense in another jurisdiction shall be classified
12 as a violent habitual offender. A person classified as a
13 violent habitual offender shall be confined for no more than
14 21 years. A person sentenced as a violent habitual offender
15 shall not be eligible for parole until the person has served
16 the minimum sentence of confinement of four years.

17 The bill requires a violent habitual offender to be placed
18 on parole or work release prior to the expiration of the
19 sentence. The bill prohibits a violent habitual offender
20 from being discharged early from parole or work release
21 unless the offender has served at least one year on parole
22 or work release. The bill also requires a violent habitual
23 offender's parole or work release to begin in a residential
24 treatment facility operated by a judicial district department
25 of correctional services.

26 The bill also prohibits a person classified as a violent
27 habitual offender from receiving a deferred judgment, or a
28 deferred or suspended sentence.